IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 22342 of 2004

Between:

1 The District Collector, (Panchayat Wing), Warangal.
2 The District Panchayat Officer, Warangal, Warangal District.

..... PETITIONERS

AND

K. Sanjeeva Reddy, S/o. Pratap Reddy, Bill Collector,
Peddamupparam Gram Panchayat, Viz., Vadde Kothapally, Warangal District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ, order or direction more particularly one in the nature of writ of Certiorari and calling for the records relating and pertaining to O.A.No. 4679/1998, dt. 20.10.2003 on the file the A.P. Administrative Tribunal, Hyderabad and quash the same.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: MR.M.KESAVA RAO

The Court at the admission stage made the following:

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ORAL ORDER: (per PSN.J.)

The Writ Petition is filed praying for a writ, order or direction more particularly one in the nature of Writ of Certiorari and calling for the records relating and pertaining to O.A.No.4679 of 1998, dated 20.10.2003 on the file of A.P. Administrative Tribunal, Hyderabad and quash the same and pass such other suitable orders.

2. The learned Government Pleader for Services-II had pointed out that though specific ground had been taken in the additional counter, the Tribunal had not considered the aspect that the expenditure on the salary of the establishment not to exceed 30% of the normal income of the Gram Panchayat, but on the other hand rejected the same on the ground that it is only an after thought.

3. No doubt the learned counsel appearing for the respondent has produced a letter addressed by the Divisional Panchayat Officer, Mahabubabad, dated 11.7.2001 to the District Collector, Warangal. The Tribunal while making the order had stated at para 7 as hereunder:

> "The applicant has been in service since 1982. The applicant approached this Tribunal seeking a direction to consider the case of the applicant for appointment as Bill Collector in the existing or future vacancies. This Tribunal allowed the OA.No.1325 of 1997 and directed the respondents to consider the case of the applicant for appointment as Bill Collector. The Gram Panchayat, Peddamupparam by its resolution dated 29.4.1991 requested the District Panchayat Officer to upgrade the full time contingent post and to appoint the applicant in the said post. The Sarpanch, GP Peddamupparam vide letter dated 10.6.1991 had forwarded the recommendation to the Divisional Panchayat Officer, Mahabubabad. P.Sambaiah, Satyanarayana, B.Kedari and J.Anjaneyulu who are juniors to the applicant and who are part time employees have been regularized and they have been granted full time scale. The respondents have not shown any other ground other than that if the applicant is granted that scale the

expenditure of the Gram Panchayat would exceed 30% of the income towards staff and this is contrary to the Government Order in GO.Ms.No.176, dated 23.3.1988. This plea has been taken for the first time in the additional counter and the same is liable to be rejected as an after thought. The applicant is entitled for the pay scale of Bill Collector".

4. It is evident from the nature of the order being passed by the Tribunal that without going into the merits or demerits of the contentions raised on the ground that the plea had been taken for the first time in the additional counter is an after thought, the said contention had been rejected. The question whether the expenditure of Gram Panchayat would exceed 30% of its income towards staff or not may have to be decided on the basis of the material, which may be produced before the Tribunal. Liberty is given to the parties to produce the concerned material, if any, before the Tribunal. The Tribunal is expected to afford the opportunity to both parties in this regard and dispose of the matter afresh taking into consideration the said material, which may be placed before the Tribunal in this regard. The matter is accordingly remitted back to the Tribunal for fresh disposal in accordance with law within a period of two (02) months from the date of receipt of a copy of this order.

5. The Writ Petition is accordingly allowed to the extent indicated above. No costs.

(G.BIKSHAPATHY, J.)

30th December, 2004.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, (Panchayat Wing), Warangal.
2 The District Panchayat Officer, Warangal, Warangal District.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

5 2 CD copies.